

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed September 15, 2004. In order to advance prosecution of this Application, Claim 36 has been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 36-39, 41-51, 53-65, 67-76, 78-81, 83, and 84 stand rejected under 35 U.S.C. §102(e) as being anticipated by Pelletier, et al. Applicant respectfully traverses this rejection.

Independent Claim 36 recites ". . . a voice gateway coupled to the telecommunications switch using the line, the voice gateway operable to receive the incoming call, to detect a unique distinctive ring assigned to the telephone number associated with the incoming call, and to communicate the incoming call according to the distinctive ring." Support for the above recitation can be found at page 14, lines 22-31, of Applicant's specification. By contrast, the Pelletier, et al. patent does not communicate the incoming call according to the distinctive ring. The Pelletier, et al. patent merely uses a distinctive ring to let a called party determine whether the incoming call came directly from a calling party or through its IP server. Moreover, the portion of the Pelletier, et al. patent cited by the Examiner illustrates that distinctive rings are used for calls processed by its IP Server and calls directly between calling and called parties without IP Server intervention. The distinctive ring cadence is a service initiated by the IP Server of the Pelletier, et al. patent. See col. 6, lines 16-34, of the Pelletier, et al. patent. The IP Server of the Pelletier, et al. patent uses the caller ID of the call to determine how to communicate the call and not the distinctive ringing as required in the claimed invention.

See col. 6, lines 51-54. Thus, the distinctive ring of the Pelletier, et al. patent identifies how the incoming call was routed to the called party and does not determine how to communicate the incoming call as provided by the claimed invention.

Independent Claims 48 and 61 recite in general the ability to receive a first incoming call with a first distinctive ring from the line and to communicate the first incoming call to a first destination according to the first distinctive ring. As stated above, the Pelletier, et al. patent uses a distinctive ring to identify how the called party is receiving the incoming call and not for a determination of how the incoming call is to be communicated as provided by the claimed invention.

Independent Claims 75 and 80 recite in general the ability to identify an available unbundled line from the plurality of unbundled lines and to communicate the voice signal to the telecommunications switch using the available unbundled line. By contrast, the first portion of the Pelletier, et al. patent cited by the Examiner to support this rejection merely shows a single dial up connection between the PSTN and the ITG. Thus, the Pelletier, et al. patent does not have a plurality of unbundled lines let alone an ability to identify an available one as provided by the claimed invention. The new portion of the Pelletier, et al. patent cited by the Examiner merely discloses communicating between its local gateway and its service platform using conventional circuit-switched telephony protocol in order to process a service request within data packets. By contrast, the claimed invention is determining an available unbundled line with which to transfer a voice signal. Thus, the citation to the

Pelletier, et al. patent provided by the Examiner has no relation to the features required in the claimed invention.

As shown above, the Pelletier, et al. patent is not sufficient to support the rejection of the claims. Therefore, Applicant respectfully submits that Claims 36-39, 41-51, 53-65, 67-76, 78-81, 83, and 84 are not anticipated by the Pelletier, et al. patent.

Claims 40, 52, 66, 77, and 82 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pelletier, et al. in view of Lund. Independent Claim 36, from which Claim 40 depends; Independent Claim 48, from which Claim 52 depends; Independent Claim 61, from which Claim 66 depends; Independent Claim 75, from which Claim 77 depends; and Independent Claim 80, from which Claim 82 depends, have been shown above to be patentably distinct from the Pelletier, et al. patent. Moreover, the Lund patent does not include any additional disclosure combinable with the Pelletier, et al. patent that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 40, 52, 66, 77, and 82 are patentably distinct from the proposed Pelletier, et al. - Lund combination.

The present Response to Examiner's Final Action is necessary to address the Examiner's new characterization of the cited art. This Response to Examiner's Final Action could not have been presented earlier as the Examiner has only provided this new characterization of the cited art.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of Claims 36-84.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicants

A handwritten signature in black ink, appearing to read "Charles S. Fish", is written over the printed name.

Charles S. Fish

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